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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,049	01/22/2002	Patrick M. Lauer	PAT 51663-2	1738
26123	7590	12/17/2003		
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA				
			EXAMINER PICKETT, JOHN G	
			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,049

Applicant(s)

LAUER, PATRICK M.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action acknowledges the applicant's Amendment A, presented as Paper No. 6. Claims 1-14 have been cancelled. Claims 15-23 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (US 277,718) in view of Kehl (US 4,649,813) and Dubery et al (US 4,032,037).

Regarding claim 15, Hart discloses an enclosure (Figure 1) with a cavity (A) and a lid (C) sized to cover the cavity. Hart does not disclose the claimed securing means or the claimed pivot means.

Kehl discloses a pivot means (28, 32) with the fulcrum arrangement claimed by the applicant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the enclosure of Hart with a pivot means as taught by Kehl in order to reduce the parts required to manufacture the enclosure.

The enclosure of Hart-Kehl does not disclose the claimed securing means.

Dubery et al discloses an enclosure (10, 12) with a magnetic means (40, 34) for securing the closure in a specific position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure of

Hart-Kehl with a magnetic means as taught by Dubery in order to maintain the closure in a specific position. The use of the magnetic means to hold the closure closed instead of open is deemed an obvious reversal of parts well within the skill of the ordinary artisan.

As to claim 16, the enclosure of Hart-Kehl-Dubery, as applied to claim 15, discloses a flush lid (Hart, Figure 3).

As to claim 17, the enclosure of Hart-Kehl-Dubery, as applied to claim 15, meets all limitations claimed by the applicant except for the lip raised from the bottom of the cavity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container of Hart-Kehl-Dubery with a lip that is raised from the bottom of the cavity in order to enable the deep-drawing and/or stamping method of fabrication, thereby reducing fabrication costs.

As to claim 18, the enclosure of Hart-Kehl-Dubery, as applied to claim 16, does not disclose the securing means attached to the lip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the securing means of Hart-Kehl-Dubery at the lip since the lip is in contact with the edge of the closure and Dubery teaches the desire to have the securing means attached to the edge of the closure.

As to claim 19, the enclosure of Hart-Kehl-Dubery discloses a magnet (Dubery, 40) and a Ferro-magnetic portion (Dubery, 34).

As to claim 20, the enclosure of Hart-Kehl-Dubery, as applied to claim 15, discloses a contiguous lip extending around substantially one half the enclosure (Hart, Figure 1, as modified with the pivot means of Kehl).

As to claim 21, the enclosure of Hart-Kehl-Dubery, as applied to claim 15, discloses the claimed invention except for the rectangular shape. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to form the enclosure of Hart-Kehl-Dubery with a rectangular shape because applicant has not disclosed that a rectangular shape provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with a circular shape because the pivot points and fulcrum feature would function the same.

As to claim 22, Kehl teaches a lip along a longitudinal side and half of each traverse side (Kehl, Figure 3).

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart-Kehl-Dubery as applied to claim 22 above, and further in view of Banfield (US 5,984,090).

The enclosure of Hart-Kehl-Dubery discloses the claimed invention except for the guitar string changing tool case.

Banfield discloses a guitar kit that is capable of functioning as a guitar string changing tool case. It would have been obvious to one of ordinary skill in the art at the

time the invention was made to provide the third chamber of Banfield with an enclosure as taught by Hart-Kehl-Dubery in order to protect any components that are retained in the third chamber from damage when cover (32) is removed.

Response to Arguments

5. Applicant's arguments filed September 17, 2003 have been fully considered but they are not persuasive.

6. In response to the applicant's argument that Dubery et al does not disclose a magnetic means to hold the lid closed. It has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

7. In response to the applicant's argument that Hart, Kehl or Dubery do not disclose the raised lip. Deep drawing is a common and well-known form of fabricating a metallic container and would have been within the general knowledge of one of ordinary skill in the art at the time the invention was made.

8. Applicant's arguments with respect to the intended use in a guitar string changing tool case are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Gregory Pickett
Examiner
December 14, 2003



Mickey Yu
Supervisory Patent Examiner
Group 3700